

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

HUTTIG BUILDING PRODUCTS, INC.)	
)	
Plaintiff,)	Cause No. 4:15-cv-0483
)	
v.)	
)	
AMERICAN HOME ASSURANCE COMPANY,)	
CENTURY INDEMNITY COMPANY (as)	
successor in interest to CCI Insurance Company,)	
as successor in interest to Insurance Company of)	
North America), AMERISURE MUTUAL)	
INSURANCE COMPANY (formerly known as)	
Michigan Mutual Insurance Company, as)	
successor in interest to Michigan Mutual Liability)	
Company), EMPLOYERS INSURANCE)	
COMPANY OF WAUSAU (formerly known as)	
Employers Insurance of Wausau, A Mutual)	
Company), FIREMAN'S FUND INSURANCE)	
COMPANY, HARTFORD ACCIDENT AND)	
INDEMNITY COMPANY, LIBERTY MUTUAL)	
INSURANCE COMPANY, NEW ENGLAND)	
INSURANCE COMPANY, TRAVELERS)	
CASUALTY AND SURETY COMPANY)	
(formerly known as The Aetna Casualty and)	
Surety Company), and TWIN CITY FIRE)	
INSURANCE COMPANY,)	
)	
Defendants.)	

NOTICE OF REMOVAL

PLEASE TAKE NOTICE that, pursuant to 28 U.S.C. §§ 1332, 1441(a) and 1446(a), Defendants, Hartford Accident and Indemnity Company (“Hartford Accident”), New England Insurance Company (“New England”), and Twin City Fire Insurance Company (“Twin City”) (collectively, “Hartford”), by and through their undersigned attorneys, hereby remove to this Court the action captioned as *Huttig Building Products, Inc. v. American Home Assurance Co.*,

et al., No. 15SL-CC00183, filed in the Circuit Court for the Twenty-First Judicial Circuit, County of St. Louis, Missouri. In support of this Notice of Removal, Hartford states as follows:

NATURE OF THE REMOVED ACTION

1. On or about January 19, 2015, Plaintiff Huttig Building Products, Inc. (“Huttig”) commenced this action by filing its Petition for Declaratory Judgment against, among others, Hartford in the Circuit Court for the Twenty-First Circuit in the County of St. Louis, Missouri, Cause No. 15SL-CC00183. (*See* Petition attached hereto as Exhibit A).

2. The Petition alleges that from approximately 1920 through 1996, Huttig was the majority owner in and/or owned and operated a lumber mill and wood processing facility located in Missoula, Montana (the “Site”). (Exhibit A at 16.) Further, the Petition alleges that Huttig is liable or allegedly liable under the laws of Montana and/or the United States to investigate and remediate alleged environmental contamination at the Site (“Missoula Site Claims”). *Id.*

3. Huttig alleges that, at various times during the period of 1963 through 1986, Hartford and the other Defendant-Insurers issued primary and/or excess liability insurance policies (“Alleged Policies”) under which Huttig allegedly qualifies as an insured for liabilities arising from the Missoula Site Claims. *Id.* at ¶¶32-34.

4. Huttig asserts a single cause of action for Declaratory Judgment seeking a declaration of the parties’ rights and obligations under the Alleged Policies with respect to Huttig’s past and future liabilities and related expenses arising from the Missoula Site Claims and a declaration requiring each Defendant-Insurer on a joint and several basis to indemnify Huttig for, or pay on behalf of Huttig, all liabilities, losses, and/or expenses, including defense costs, caused by the Missoula Site Claims. *Id.* at Prayer for Relief.

PAPERS FROM REMOVED ACTION

5. Pursuant to the requirements of 28 U.S.C. § 1446(a) and Local Rule 81-02.03, all other process, pleadings, orders and other documents on file in this matter in the State Court are attached hereto as Group Exhibit B. No other pleadings, process, or orders have been served upon the Defendants or filed in the State Court as of this date.

REMOVAL IS TIMELY

6. Hartford Accident was served with the Summons and Petition on February 24, 2015; New England and Twin City were both served with the Summons and Petition on February 25, 2014. Thus, this Notice of Removal is timely under 28 U.S.C. § 1446(b).

DIVERSITY OF CITIZENSHIP EXISTS BETWEEN THE PARTIES

7. This court has subject matter jurisdiction over this action, pursuant to 28 U.S.C. § 1332(a)(1), in that there is complete diversity of citizenship between Huttig and the Defendants.

8. Plaintiff, Huttig, is a Delaware corporation with its principal place of business located in Missouri. (*See* Exhibit A at ¶2.)

9. Defendant, American Home Assurance Company, is a New York corporation with its principal place of business located in New York.

10. Defendant, Amerisure Mutual Insurance Company (formerly known as Michigan Mutual Insurance Company, as successor in interest to Michigan Mutual Liability Company), is a Michigan corporation with its principal place of business located in Michigan.

11. Defendant, Insurance Company of North America, improperly named as “Century Indemnity Company (as successor-in-interest to CCI Insurance Company, as successor-in-interest to Insurance Company of North America),” is a Pennsylvania corporation with its principal place of business located in Pennsylvania.

12. Defendant, Fireman's Fund Insurance Company, is a California corporation with its principal place of business located in California.

13. Defendant, Hartford Accident, is a Connecticut corporation with its principal place of business located in Connecticut.

14. Defendant, Liberty Mutual Insurance Company, is a Massachusetts corporation with its principal place of business located in Massachusetts.

15. Defendant, New England, is a Connecticut corporation with its principal place of business located in Connecticut.

16. Defendant, Employers Insurance Company of Wausau (formerly known as Employers Insurance of Wausau, A Mutual Company), is a Wisconsin corporation with its principal place of business located in Massachusetts.

17. Defendant, Travelers Casualty and Surety Company (formerly known as the Aetna Casualty and Surety Company), is a Connecticut corporation with its principal place of business located in Connecticut.

18. Defendant, Twin City, is an Indiana corporation with its principal place of business located in Connecticut.

THE AMOUNT IN CONTROVERSY REQUIREMENT IS SATISFIED

19. A district court has original diversity jurisdiction where "the matter in controversy exceeds the sum or value of \$75,000, exclusive of interests and costs...." 28 U.S.C. § 1332(a). "Where, as here, the complaint alleges no specific amount of damages..., the removing party... must prove by a preponderance of the evidence that the amount in controversy exceeds \$75,000." *McCord v. Minn. Mut. Life Ins. Co.*, 346 F.3d 830, 834 (8th Cir. 2003).

20. While the Petition does not allege a specific amount of damages, it is apparent from the allegations of the Petition that Huttig is seeking damages in excess of \$75,000. Huttig is seeking coverage under the Alleged Policies for past costs associated with the Missoula Site Claims, which include a prior remedial investigation, installation of monitoring wells, completion of soil borings, collection of groundwater samples, and completion of an aquifer pump test. (*See* Exhibit A ¶28.)

21. Huttig is also seeking coverage under the Alleged Policies for future remediation costs associated with the Missoula Site Claims, based upon a Proposed Plan dated February 2014 that was issued by the Missouri Department of Environmental Quality. *Id.* at ¶31. In its most recent 10-Q filing with the United States Securities and Exchange Commission, Huttig reports that it believes that \$3.7 million is a “reasonable estimate” of the costs it will incur for future remediation, and in fact, the amount of expenses it may ultimately incur could actually exceed that estimate. (*See Huttig Building Products, Inc. Form 10-Q dated October 30, 2014 at pp.14-15, a true and correct copy of which is attached hereto as Exhibit C.*)¹

22. Based on the past and future costs Huttig seeks to recover in this matter, the matter in controversy exceeds the sum or value of \$75,000, exclusive of interests and costs, and therefore, meets this Court’s jurisdictional requirement.

PROPER VENUE

23. The United States District Court for the Eastern District of Missouri, Eastern Division, encompasses the county in which the state court action is now pending. Therefore, this action is properly removed to the Eastern District of Missouri, Eastern Division, pursuant to 28 U.S.C. §§ 105(a)(1) and 1441(a).

¹ This Court may take judicial notice of Huttig’s public filings with the SEC. *See Horizon Asset Mgm’t. v. H&R Block, Inc.*, 580 F.3d 755,761 (8th Cir. 2009).

UNANIMOUS CONSENT TO REMOVAL BY ALL DEFENDANTS

24. Each of the Defendants has consented to the removal of Huttig's Petition for Declaratory Judgment to this Court, and thus, there is unanimous consent to removal by all Defendants as required by 28 U.S. C. §1446 (b)(2)(a). (See Group Exhibit D.)

FILING OF REMOVAL PAPERS

25. Pursuant to 28 U.S.C. §1446(b), Hartford will file a copy of this Notice of Removal with the Clerk of the Circuit Court for the Twenty-First Judicial Circuit, County of St. Louis, Missouri and serve a copy of this Notice of Removal on counsel of record for Huttig.

WHEREFORE, Defendants, Hartford Accident and Indemnity Company, New England Insurance Company, and Twin City Fire Insurance Company, hereby remove this action from the Circuit Court for the Twenty-First Circuit, County of St. Louis, Missouri, to the United States District Court for the Eastern District of Missouri.

HEPLERBROOM LLC

By: /s/ Michael L. Young

Michael L. Young # 52058MO

email: mly@heplerbroom.com

Katherine E. Jacobi # 63907MO

email: kej@heplerbroom.com

211 North Broadway, Suite 2700

St. Louis, Missouri 63102

314-241-6160 telephone

314-241-6116 facsimile

-and-

KARBAL, COHEN, ECONOMOU, SILK &
DUNNE, LLC

Dena Economou *pro hac will be pending*
email: deconomou@karballaw.com

Gerald E. Ziebell *pro hac will be pending*
email: gziebell@karballaw.com

Jocelyn F. Cornbleet *pro hac will be pending*
email: jcornbleet@karballaw.com

150 South Wacker Drive, Suite 1700

Chicago, IL 60606

312-431-3700 telephone

312-431-3670 facsimile

ATTORNEYS FOR **DEFENDANTS HARTFORD
ACCIDENT AND INDEMNITY COMPANY, NEW
ENGLAND INSURANCE COMPANY AND TWIN CITY
FIRE INSURANCE COMPANY**

PROOF OF SERVICE

I hereby certify that I electronically filed on March 17, 2015, the foregoing with the Clerk of the Court using the CM/ECF system and I mailed by first class mail, postage prepaid, and by depositing in a U.S. Post Office mail box, a copy of this document to the following non-registered participants on the date above:

ATTORNEY FOR **PLAINTIFF**

James Bennett
Matthew Crane
DOWD BENNETT LLP
7733 Forsyth Blvd, Suite 1900
Clayton, MO 63105

-and-

David McGonigle
Douglas Simmons
Amanda Cashman
K&L GATES LLP
K&L Gates Center
210 Sixth Avenue
Pittsburgh, PA 15222

ATTORNEY FOR **DEFENDANT
AMERICAN HOME ASSURANCE
COMPANY**

Scott D. Hofer
William Clayton Crawford
FOLAND, WICKENS, EISFELDER, ROPER &
HOFER PC
Commerce Tower
911 Main Street, 30th Floor
Kansas City, MO 64105

-and-

Joseph A. Hinkhouse
Joshua A. Boggioni
HINKHOUSE, WILLIAMS WALSH LLP
180 N. Stetson Avenue, Suite 3400
Chicago, IL 60601

ATTORNEY FOR **DEFENDANT**
AMERISURE MUTUAL INSURANCE
COMPANY

Timothy F. Casey
Nicole E. Wilinski
COLLINS EINHORN FARRELL PC
4000 Town Center, 9th Floor
Southfield, MI 48075

ATTORNEY FOR **DEFENDANT**
CENTURY INDEMNITY COMPANY

Edward L. Adelman
GOFFSTEIN, RASKAS, POMERANTZ, KRAUS &
SHERMAN, L.L.C.
7701 Clayton Road
St. Louis, MO 63117

ATTORNEY FOR **DEFENDANT**
EMPLOYERS INSURANCE
COMPANY OF WAUSAU

Eric C. Young
JOLEY, OLIVER & BEASLEY, P.C.
8 East Washington Street
Belleville, IL 62220

ATTORNEY FOR **DEFENDANT**
FIREMAN'S FUND INSURANCE
COMPANY

Leslie A. Davis
CROWELL & MORING LLP
1001 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

ATTORNEY FOR **DEFENDANT**
LIBERTY MUTUAL INSURANCE
COMPANY

Michael J. Cohen
Joseph J. Sarmiento
MEISSNER TIERNEY FISHER & NICHOLS, S.C.
111 E. Kilbourn Avenue, Suite 1900
Milwaukee, WI 53202

ATTORNEY FOR **DEFENDANT**
TRAVELERS CASUALTY AND
SURETY COMPANY

Lisa A. Pake
Timothy A. Weil
HAAR & WOODS, LLP
1010 Market Street, Suite 1620
St. Louis, MO 63101

/s/ Michael L. Young